

ASSEMBLY BILL

No. 453

Introduced by Assembly Member Benoit

February 15, 2005

An act to amend Sections 2454, 2456, and 2458 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 453, as introduced, Benoit. Grade separation projects.

Existing law requires the California Transportation Commission to make allocations for grade separation projects, as defined. Existing law requires a railroad to agree to contribute 10% of the cost of a project in order for an allocation to be made for projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation. Existing law requires, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish certain evidence satisfactory to the Department of Transportation, including that all matters prerequisite to the award of the construction contract can be accomplished within one year after the allocation.

This bill would instead require a railroad to agree to contribute 5% of the cost of a project in order for those allocations to be made. The bill would require, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish evidence satisfactory to the department that all matters prerequisite to the award of a construction contract can be accomplished within two years after the allocation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2454 of the Streets and Highways Code is amended to read:

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) An allocation of 50 percent of the estimated cost of the project shall be made for a proposed crossing.

(c) No allocation shall be made in excess of 50 percent of the estimated cost of the project unless the grade crossing to be eliminated has been in existence for at least 10 years prior to the date of allocation.

(d) On projects which eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute ~~10~~ 5 percent of the cost of the project.

(e) Where a project does not include a grade separation, but eliminates existing grade crossing or crossings, the allocation shall not exceed the estimated allocation that would have been made for the grade separation which is no longer needed because of the elimination of the grade crossing by the project and which is indicated on the priority list to be urgently in need of grade separation.

(f) Where the project includes the separation of a highway and a railroad passenger service operated by a city or county, the operating agency shall contribute 20 percent of the cost of the project. The priority listing for such projects shall be in accordance with criteria established for such railroad passenger service by the Public Utilities Commission.

(g) Notwithstanding subdivisions (a) to (f), inclusive, the total of such allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization, except that the amount for a single project may be increased to either (1) an amount that includes the federal construction cost index increase each year since 1976, or (2) an

1 amount which does not exceed one-third of the total funds
2 appropriated for grade separation projects for the year of
3 allocation, whichever amount is less, as determined each year by
4 the Public Utilities Commission.

5 (h) Notwithstanding subdivisions (a) to (g), inclusive, a single
6 project in excess of five million dollars (\$5,000,000), but not
7 exceeding twenty million dollars (\$20,000,000), shall be
8 considered without specific legislative authority, if the project (1)
9 is included in the Public Utilities Commission's priority list of
10 projects scheduled to be funded, (2) eliminates the need for
11 future related grade separation projects, (3) provides projected
12 cost savings of at least 50 percent to the state or local
13 jurisdiction, or both of them, by eliminating the need for future
14 projects, and (4) alleviates traffic and safety problems or
15 provides improved rail service not otherwise possible. Projects
16 approved pursuant to this subdivision shall be funded over a
17 multiyear period, not to exceed five years, and the allocation for
18 any one of those years shall not exceed the amount prescribed by
19 subdivision (g) for a single project. An agency which has
20 received an allocation for a project approved pursuant to this
21 subdivision shall not be eligible for an allocation for another
22 project under this subdivision for a period of 10 years from the
23 date of approval of that project. Not more than one-half of the
24 total allocation available in any one fiscal year for grade
25 separation projects may be used for the purposes of this
26 subdivision.

27 (i) Notwithstanding any of the above provisions of this section
28 or any other provision of law, when the state or local agency uses
29 funds derived from federal sources in financing its share of
30 project costs, the railroad contribution, where required by federal
31 law or regulation, shall be computed pursuant to federal law.
32 However, the allocation made pursuant to this chapter shall be
33 computed as though such matching contribution was derived
34 from nonfederal sources and shall be computed as though the
35 railroad had made its contribution pursuant to state law rather
36 than pursuant to federal law. Where the contribution of the
37 railroad is computed according to federal law or regulation
38 because of the use of federal funds in the allocation for a project,
39 the allocation shall be increased by the amount the share of the

1 railroad is reduced below ~~10~~ 5 percent of the estimated cost of
2 the project.

3 SEC. 2. Section 2456 of the Streets and Highways Code is
4 amended to read:

5 2456. An allocation for construction costs, including
6 preconstruction costs if not already allocated, shall be made to a
7 local agency only if it furnishes evidence satisfactory to the
8 department that all necessary orders of the Public Utilities
9 Commission have been executed, that sufficient local funds will
10 be made available as the work of the project progresses, that all
11 necessary agreements with affected railroad or railroads have
12 been executed that, if required, all environmental impact reports
13 have been prepared and approvals obtained, and that all other
14 matters prerequisite to the award of the construction contract can
15 be accomplished within ~~one year~~ *two years* after the allocation.
16 Local funds shall be deemed available to the amount of any
17 general obligation bonds authorized but unsold if it is determined
18 that such bonds may be issued and sold by the local agency at
19 any time.

20 SEC. 3. Section 2458 of the Streets and Highways Code is
21 amended to read:

22 2458. Except as provided in this section, allocations shall
23 remain available until expended. If a construction contract has
24 not been awarded within ~~one year~~ *two years* after an allocation
25 for construction costs, the commission may order the allocation
26 canceled and such funds shall revert to the fund set aside for
27 purposes of this chapter. All or any part of an allocation for
28 preconstruction costs may be canceled and such funds shall
29 revert to the fund set aside for purposes of this chapter upon a
30 finding that insufficient progress is being made to complete the
31 project. Where an allocation is canceled pursuant to this section,
32 the local agency shall reimburse the fund set aside for purposes
33 of this chapter the portion of the allocation which is not reverted
34 as set forth in this section. The department shall determine, with
35 the local agency, as to the time of repayment.